

FOSHEE & TURNER COURT REPORTERS

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1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE MIDDLE DISTRICT OF ALABAMA

3 SOUTHERN DIVISION

4 CASE NUMBER: 1:05cv-443-W

5 DIANE MURPHY,

6 Plaintiff,

7 vs.

8 ADVANCE AMERICA CASH

9 ADVANCE CENTERS OF ALABAMA,

10 Defendant.

11 DEPOSITION OF DIANE MURPHY

12 In accordance with

13 Rule 5 (d) of The Alabama Rules of

14 Federal Procedure, as Amended, effective

15 May 15, 1988, I, ELLEN DYE, am hereby

16 delivering to MR. JAMES R. MULROY, II,

17 the original transcript of the oral

18 testimony taken on the 13th day of

19 October, 2005, along with exhibits.

20 Please be advised that

21 this is the same and not retained by the

22 Court Reporter, nor filed with the Court.

23

ORIGINAL

EXHIBIT

tabbles

1
(PART 1 OF 3)

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1 I, ELLEN DYE, a
2 Court Reporter of Birmingham, Alabama,
3 acting as Commissioner, certify that on
4 this date, as provided by the Alabama
5 Rules of Federal Procedure and the
6 foregoing stipulation of counsel, there
7 came before me at the offices of Stephen
8 B. Griffin & Associates, 2100 Riverhaven
9 Drive, Suite 1, Hoover, Alabama 35244,
10 beginning at 9:30 a.m., DIANE MURPHY,
11 witness in the above cause, for oral
12 examination, whereupon the following
13 proceedings were had:

14 DIANE MURPHY,
15 being first duly sworn, was examined and
16 testified as follows:

17 THE COURT REPORTER: Usual
18 stipulations?

19 MR. GRAY: That's fine.

20 MR. MULROY: Yes.

21 EXAMINATION BY MR. MULROY:

22 Q Ms. Murphy, my name is
23 Jim Mulroy and I'm the lawyer for Advance

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1 A About a week or so.

2 Q And were you subsequently
3 hired?

4 A Yes.

5 Q And did you interview with
6 anybody?

7 A I interviewed with Hope.

8 Q Okay. Anybody else?

9 A I believe at the time -- I'm
10 not sure. I believe at the time it was
11 like the second interview and that was
12 with the regional manager at the time or,
13 no, I think she was the area manager at
14 the time.

15 Q Who was that?

16 A I'm not quite sure. I don't
17 quite remember her name.

18 Q Where did you go to work
19 then?

20 A In Enterprise.

21 Q And what was your job title?

22 A Assistant manager.

23 Q And what year was that?

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1 A 2000.

2 Q And were you a full-time or
3 part-time person?

4 A Full time.

5 Q I'm going to hand you what's
6 been marked as Exhibit No. 1 and ask
7 whose handwriting was on that.

8 (Defendant's Exhibit
9 No. 1 was marked
10 for identification.)

11 A This is my handwriting.

12 Q And do you recognize this to
13 be the application you filled out to work
14 for Advance America in about -- let's
15 see. What is it March 13, 2000?

16 A Yes.

17 Q And a few questions to ask you
18 on this application. There are some
19 numbers down here at the bottom. We call
20 those bate numbers. It's INT86. Do you
21 see that? I won't mention all the
22 zeroes.

23 A Yes.

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1 marketing going door to door, putting out
2 flyers and different publications of the
3 company.

4 Q And she would tell you to do
5 that but you didn't think it was your
6 responsibility to do it?

7 A I would do it and I also
8 voiced an opinion that I felt like I
9 shouldn't be the only one marketing.

10 Q And what did she tell you?

11 A She told me she was the
12 manager and take it or leave it. I
13 either market or --

14 Q She would get somebody else?

15 A Pretty much.

16 Q How long did Ms. French
17 supervise you?

18 A I would say for a year.

19 Q And this kind of discussion
20 with Ms. French went on during that
21 entire period of a year?

22 A Pretty much, yes.

23 Q There was kind of a conflict

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1 situation there?

2 A Right.

3 Q How did that conflict end?

4 A She ended moving to the
5 Marianna, Florida branch.

6 Q And before she moved who was
7 her boss, do you recall?

8 A She transitioned. The first
9 half was the lady that I spoke about
10 earlier, the area manager, and I believe
11 she could have been the -- they hired
12 John Knowles.

13 Q And how often would you see
14 Mr. Knowles when Ms. French was there?

15 A Not too often. Only when he
16 called. Pretty much -- I mean
17 occasionally. I mean not too often. She
18 would be on the phone with him
19 constantly.

20 Q Talking about you or talking
21 about other things?

22 A Talking about me, other
23 things.

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1 Q What was Ms. French telling
2 Mr. Knowles about you?

3 A I assume how I wouldn't
4 market, how -- I don't know. I don't
5 know. How I'm not doing my job to her
6 standards. She couldn't possibly say I
7 wasn't marketing because I was doing all
8 the market.

9 Q Was she saying that you're
10 doing the marketing but you're
11 complaining a lot about it? Is that what
12 the nature of her complaints would be?

13 A No.

14 Q What did she tell Mr. Knowles
15 about your marketing?

16 A It was basically she would
17 reconfirm because she told me that
18 Mr. Knowles told her that she didn't have
19 to market by her being the manager.
20 And my thing was that when I was hired I
21 was told that the marketing would be done
22 by the manager and also the assistant
23 manager.

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1 Q Okay. Did you ever talk to
2 Mr. Knowles about that?

3 A I did.

4 Q And that was while Ms. French
5 was still there?

6 A Yes.

7 Q Okay. What did you say to
8 Mr. Knowles and what did he say to you?

9 A I asked him what were the
10 company's requirements or duties when it
11 comes to marketing and he said that
12 he -- sometimes if you have an agreement
13 worked out between the two of you the
14 assistant manager, which was myself,
15 could do all the marketing and the
16 manager wouldn't have to. I told him we
17 did not have an agreement worked out and
18 I was told that she would market. You
19 know, the marketing would be split in
20 half and he said, well, technically both
21 parties are supposed to do the marketing
22 but the manager has so many other duties
23 they don't get around to doing the

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1 marketing and by me being a team player I
2 would have to, you know, pick up the
3 slack and do the marketing.

4 Q You say you need to be a team
5 player and do the marketing?

6 A Right. The manager cannot do
7 the marketing.

8 Q And then after Ms. French was
9 your manager who was the next manager?

10 A Edward Finnegan.

11 Q And how long was Mr. Finnegan
12 your manager?

13 A Until I got promoted to
14 manager.

15 Q That would have been in?

16 A November 2002.

17 Q Okay.

18 A I'm not sure. I'm not sure
19 about that date.

20 Q So, up until the time you got
21 promoted to manager you had two managers,
22 Ms. French and Mr. Finnegan, is that
23 correct?

1 A Right.

2 Q What was your relationship
3 like with Mr. Finnegan?

4 A I thought we had a good
5 working relationship. When I say good he
6 wouldn't complain to me, you know. It
7 was a different tactic. He wouldn't sit
8 and tell me that, you know, I don't know
9 my job and I'm not doing this right. I'm
10 not doing that right. He wasn't
11 nit-picky like Hope was. I still had to
12 go out and do my marketing and pretty
13 much just basic duties. I mean I had to
14 do my marketing. He stated he did his
15 marketing. I don't know because I wasn't
16 there.

17 Q Okay. Did you ever have
18 occasion to have any discussions about
19 your performance with Mr. Finnegan?

20 A Yes.

21 Q Okay. Tell me about that.
22 What did he tell you about your
23 performance?

1 for a promotion. I pretty much showed
2 him the ropes and pretty much trained him
3 when he got there. Before I was
4 promised -- I wouldn't say promised but I
5 was told if I was qualified enough it
6 would be up to John Knowles to give me a
7 management position at Enterprise before
8 Edward Finnegan got there. I was told
9 this by Jennifer Rodriguez who was the
10 RDO at the time. And I guess John
11 Knowles felt like I was not qualified for
12 that management position so he hired
13 Edward Finnegan and when Edward Finnegan
14 become the manager I had to pretty much
15 train him in the position.

16 Q Do you know what
17 Mr. Finnegan's background was?

18 A No, I don't.

19 Q Your relationship with
20 Mr. Finnegan was still good even though
21 he took the management position that you
22 wanted, is that correct?

23 A Right.

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1 Q And how often during that
2 period would you actually see
3 Mr. Knowles? How many occasions?
4 On a weekly basis?

5 A I would say twice a month if
6 that amount. He would talk on the phone
7 with Edward Finnegan constantly.

8 Q That was during the time
9 Mr. Finnegan was your boss?

10 A Yes.

11 Q And during the period before
12 November 2002 when you got a promotion to
13 management had you applied for any other
14 management positions?

15 A I let my request be known.
16 After John Knowles hired -- well, before
17 John Knowles hired Edward Finnegan he
18 come and talk with me. He told me that
19 he didn't think I was qualified to be the
20 manager, the reason why he didn't give me
21 that position. I told him I felt like I
22 was qualified. He stated that he don't
23 feel like I'm qualified and Jennifer

1 Rodriguez, which was his boss at the
2 time, the regional manager left it up to
3 him to either promote me or to hire
4 someone else. So he stated he wanted to
5 hire Edward Finnegan and after that
6 point, which after I proved myself, the
7 next position open, which was supposed to
8 be the Ozark store, he would give that
9 one to me as the manager.

10 Q What happened in the Ozark
11 store?

12 A It was given to someone else.

13 Q Who was it given to?

14 A Deborah Mercer.

15 Q And in about what year was
16 that?

17 A I'm no good with the dates so
18 give me a moment.

19 Q It would have been sometime
20 before November of 2002, correct?

21 A Correct, yes. It would be
22 before November 2002.

23 Q It would have been in 2001?

1 A When I got hired?

2 Q No.

3 A When Deborah got hired?

4 Q Yes.

5 A I believe it was 2002. I'm
6 not sure.

7 Q What did you do to apply for
8 that position?

9 A I interviewed.

10 Q Okay. And who did you
11 interview with?

12 A Let me see. I interviewed
13 with Jennifer Rodriguez.

14 Q And where did the interview
15 take place?

16 A John Knowles' office. Dothan,
17 Alabama.

18 Q Okay. And Jennifer Rodriguez
19 is a while female?

20 A Yes.

21 Q And what did you say to her
22 and what did she say to you about the
23 job?

1 A It was just like a basic
2 interview.

3 Q Okay. Did she offer you the
4 job?

5 A She asked me was I interested
6 in the job. There was no job offered. I
7 mean it was just several candidates
8 applied for the job.

9 Q Who else applied?

10 A Deborah Mercer.

11 Q What race is Deborah Mercer?

12 A A white female.

13 Q Who else applied?

14 A I'm not sure. I was told
15 other candidates. I know for sure
16 Deborah Mercer applied for the job.

17 Q Okay. And then Deborah Mercer
18 was ultimately selected?

19 A Yes.

20 Q Okay. Did you know
21 Deborah Mercer before the application
22 process?

23 A Did I know her? Yes.

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1 the question. The question is what
2 records do you have?

3 A Just paperwork from like PCO
4 reports, paperwork from where I started
5 at the branch and then that's where I can
6 estimate from the time I started she was
7 a manager about a year prior to that.

8 Q So if you started in November,
9 2002 being a manager then it was a year
10 prior to when you were promoted to
11 manager she would have been promoted to
12 manager?

13 A Right.

14 Q Which would have been in 2001?

15 A No. I didn't start in 2002.
16 I believe it was 2003 if I'm not
17 mistaken.

18 Q So it was sometime in 2002 you
19 think she was promoted?

20 A I'm not sure. I know she was
21 there a year prior to my becoming a
22 manager at the Ozark branch.

23 Q Before you were promoted to

1 manager were there any other management
2 positions you applied for?

3 A That was the only formal
4 situation where we interviewed. I mean
5 that was -- I asked Mr. Knowles -- I
6 would talk to Mr. Knowles constantly and
7 let him know, you know, I need -- you
8 know, I want to become a manager, this
9 and that. He told me he had pretty much
10 promised me the Ozark branch. And he
11 would tell me on other occasions, which I
12 know I could not accept because it wasn't
13 in my area. I would have to move to work
14 at a branch like that.

15 Q Tell me the ones he offered to
16 you that were not in your area.

17 A He didn't offer. He was just
18 telling me a position coming available
19 for, you know, certain locations.

20 Q Tell me what locations.

21 A Andalusia.

22 Q Where is Andalusia?

23 A I don't know how far it is

1 from here. I'm not sure. It's like two
2 hours, three hours away.

3 Q You didn't want that because
4 you didn't want to move?

5 A No. My mother is ill. She's
6 a heart patient and I have to take care
7 of her and I don't want to move her away
8 from the doctor.

9 Q And what other locations did
10 he suggest to you that were open?

11 A Ozark would be open soon.

12 Q That's the one that was given
13 to --

14 A Right.

15 Q -- Deborah Mercer?

16 A He had promised me he would
17 give me Ozark. That's the one that was
18 given to Deborah Mercer.

19 Q Andalusia? Where else?

20 A That's it.

21 Q Were there any other positions
22 that were open during that period that
23 were given to other people that you

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1 wanted?

2 A There was one position in
3 Dothan that I constantly asked
4 Mr. Knowles about but he would pretty
5 much blow me off and he said he didn't
6 know when it would open or what or how.
7 And the next thing I knew they had
8 already hired a manager for that
9 position.

10 Q Who did they hire for that
11 position?

12 A Jennifer, I believe. She's no
13 longer with the company. I'm not sure.

14 Q Could you describe her for me?

15 A Jennifer Baker, I believe,
16 that was her name. A white female, blond
17 hair.

18 Q That was in Dothan, Alabama?

19 A Yes.

20 Q How far is Dothan from here?

21 A From where I live or from
22 here in Birmingham?

23 Q From where you live.

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1 A From where I live, twenty
2 miles.

3 Q Okay.

4 A That's where my mother's
5 doctor was that way so --

6 Q In Dothan?

7 A Yes.

8 Q Were there any other positions
9 that were open during that period before
10 you were promoted that were filled by
11 anybody?

12 A Not that I know of. Not that
13 I recall.

14 Q And the Dothan position was
15 there actually any kind of application
16 process?

17 A Not that I know of.

18 Q Or interview process?

19 A No.

20 Q Do you know where Ms. Baker
21 came from?

22 A No.

23 Q Was she working with Advance

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1 America?

2 A No, I don't think so. I'm not
3 sure.

4 Q You don't know what her
5 qualifications were?

6 A No, I don't.

7 Q Do you know what Ms. Mercer's
8 qualification for the job were?

9 A No, I don't.

10 Q You don't know what her
11 educational background was or work
12 background?

13 A Only hearsay. I've heard her
14 say prior to coming to Advance America
15 she worked at the shirt factory in
16 Dothan.

17 Q Okay. Did you make any open
18 door complaints or make any grievance
19 through the company concerning these
20 positions?

21 A I would go to Mr. Knowles and
22 he would tell me that the reason why I
23 didn't get Ozark is that I didn't have

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1 qualifications for the job?

2 A He used to work at Highland
3 Meyers, I believe.

4 Q Furniture company?

5 A Right.

6 Q Tell me about how you were
7 promoted to the Ozark position, how you
8 got that job.

9 A Like I say after that
10 conversation from someone at corporate
11 they assured me they would investigate
12 the situation and Mr. Knowles talked to
13 me less than a month after that and told
14 me that I would have to take a
15 test -- evaluation before getting the
16 position at Ozark. And then at that time
17 I asked him what are you telling me I'm
18 hired or what. He said, well, I don't
19 know. He had a copy of the stats and
20 like the numbers for the branch and
21 everything. He gave me a rundown on
22 where the store was and it was pretty
23 much not where it should have been. And

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1 he was letting me know that I have pretty
2 much big shoes to fill. I have a lot of
3 work ahead of me if I decide to take that
4 position. Then at that point -- once I
5 told him if he's offering me the job of
6 course I would accept.

7 Q And what happened next?

8 A He offered me the job.

9 Q And where did this
10 conversation take place?

11 A In the branch, Enterprise.

12 Q What happened to the person
13 who had been in the position before you
14 took it?

15 A Not sure. From what I
16 understand she was working in the Eufala
17 branch. One of the managers had quit and
18 she volunteered for higher pay to go to
19 the you Eufala branch.

20 Q How do you know it was higher
21 pay?

22 A In conversation that's what
23 I've been told.

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1 A Yes, yes. The manager in
2 Dothan.

3 Q Who was that?

4 A Eunice. It was not done by
5 John Knowles. It was done by someone
6 else from what I hear.

7 Q What did they get terminated
8 for?

9 A From what I hear is that she
10 got caught stealing.

11 Q What was her race?

12 A White female.

13 Q And who replaced her?

14 A I'm not sure.

15 Q You were a manager at Ozark
16 after that?

17 A Yes.

18 Q You had to take some sort of
19 psychological test?

20 A I believe.

21 Q Some kind of assessment
22 whether or not you could be management
23 material, is that correct?

1 A Correct.

2 Q And then after you did that
3 you were offered the job?

4 A Right. At that time I was the
5 only manager made to take that test.

6 Q How do you know that?

7 A Because I called every manager
8 and they never heard of the tests.
9 They was not required to take the test
10 before becoming a manager. And I was
11 told that it was mandatory for me to take
12 that test, you know, and to get that
13 position.

14 Q After you took the test then
15 you got the job, is that correct?

16 A Correct.

17 Q Okay. And this would have
18 been the third opening that you desired
19 before you were promoted, correct?

20 A I would say the second
21 opening.

22 Q The second opening that you
23 would have liked to have? You didn't get

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1 the first one? You got the second one?

2 A Well, let me see. At that
3 time -- let me see how many stores was
4 opened in Dothan. I believe there was
5 one store open in Dothan at the time. So
6 it would be two positions.

7 Q You didn't get the first one
8 but you got the second one?

9 A I didn't get the second one
10 until afterwards.

11 Q How long afterwards?

12 A About a year when Deborah
13 Mercer went to Eufala that's when I got
14 the Ozark position.

15 Q So there was one that you
16 wanted? The first one you wanted was in
17 Dothan?

18 A The first one was in Ozark
19 when I was promised Ozark. Actually
20 Enterprise. As a matter of fact, would
21 be the first promotion that I got passed
22 over because at that point in time I was
23 with the company going on a year and I

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1 felt like I was well able to run the
2 branch and I was told that by
3 John Knowles I was not able to run the
4 branch.

5 Q Okay. Who got that job?

6 A Edward Finnegan.

7 Q And Finnegan was the training
8 manager?

9 A Right. Later he was hired
10 on -- later he was promoted to the
11 training manager. He was hired on as the
12 branch manager.

13 Q So Enterprise then Dothan
14 and --

15 A After I got passed up for
16 Enterprise I was promised Ozark.

17 Q Okay. And that was the one
18 Deborah Mercer took?

19 A Right.

20 Q She was promoted to another
21 position?

22 A Yes.

23 Q Then you were offered the job

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1 at Ozark?

2 A Right. Dothan kind of in
3 between that offer.

4 Q The opening in Dothan that you
5 wanted but didn't get?

6 A Right.

7 Q And then you got the Ozark
8 position?

9 A Right. Only a month or less
10 than a month after someone made an
11 anonymous complaint to corporate and
12 corporate contacted me and stated they
13 would investigate the situation.

14 Q How do you know an anonymous
15 complaint was made?

16 A That's what they told me. The
17 person didn't name their name,
18 information or nothing. They told me it
19 was an anonymous complaint.

20 Q The person that called you did
21 identity themselves to you, right?

22 A Yes. She was a white female.

23 I mean she worked in --

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1 Q HR or --

2 A Yes.

3 Q So then you got the job as
4 the manager of Ozark? Who was it that
5 you supervised there?

6 A It was Todd Campbell. He
7 worked for Deborah and he resigned after
8 a few months.

9 Q Why did he resign?

10 A After two months. He knew
11 that I was going to fire him. He refused
12 to market. He would not market. He
13 would come in late meaning that I would
14 have to call him to wake him up at
15 10:30 in the morning. He was asleep in
16 bed. At one occasion he stated that his
17 mother was in the hospital and she could
18 not wake him up on time.

19 So, I mean I was getting
20 ready to terminate him. I had talked to
21 John Knowles about him and he told me not
22 to terminate him. And then I asked why.
23 He said just let him resign because he

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1 was talking to Deborah Mercer at the time
2 and he wanted to transfer her to the
3 Eufala branch but she didn't need help at
4 the time in the Eufala branch. He had
5 voiced his opinion that he refused to
6 work under me and I could not terminate
7 him. I was told by John Knowles not to
8 terminate him, that he will get fed up
9 enough and he will resign, which he was
10 allowed to resign. He quit.

11 Q Then who worked for you after
12 that?

13 A Shmeka.

14 Q Do you remember her last name?

15 A Cohen.

16 Q And what was her position?

17 A CSR.

18 Q Who long did Shmeka work for
19 you?

20 A She worked until I left. She
21 was, I will say -- see, she worked after
22 I left up until the time they transferred
23 me back to the Enterprise branch, which

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1 Q Did he ever tell you why he
2 was moving you from Ozark to Enterprise?

3 A No.

4 Q Okay.

5 A I asked him why, of course.
6 And he said that's the way it is. I said
7 well, I prefer not to if I have a say in
8 the manner. He say I don't. I said
9 whose decision was it. He said the
10 powers to be and it -- how did he put it.
11 The powers to be and the only other
12 choice I have is to transfer or to just
13 leave the company, terminate me. I had
14 no choices in the matter.

15 Q What did you earn at the Ozark
16 store?

17 A It was eleven dollars and
18 something. I'm not sure what the cents
19 was.

20 Q And when you moved to
21 Enterprise what did they pay you?

22 A It was the same. He stated
23 that -- I inquired about a pay raise. He

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1 stated that he would look into it but he
2 never mentioned anything about a pay
3 raise to me. He told me that it could be
4 in the budget. He said it depends on
5 where things are at and my budget.

6 Q I'm sorry, go ahead.

7 A I inquired several times after
8 that but he still refused to give me one.

9 Q Who was the manager at the
10 Enterprise store before you went there?

11 A Edward Finnegan.

12 Q And where did Mr. Finnegan go?

13 A He went to the Dothan
14 location temporarily from what I was
15 told.

16 Q Do you know why?

17 A That's when the manager,
18 Eunice, got terminated, and he was there
19 pretty much filling in.

20 Q And, Eunice, what race was
21 she?

22 A A white female. That's the
23 one that got caught stealing.

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1 MR. GRAY: Jim, do you mind if
2 we take a quick break?

3 MR. MULROY: Sure. That would
4 be great.

5 (A break was taken.)

6 Q (BY MR. MULROY:) Do you
7 remember when you were transferred from
8 the Ozark Enterprise?

9 A October, '04.

10 Q And would it be fair to say
11 that nothing changed as far as your pay
12 and benefits went?

13 A Right.

14 Q And your duties at Enterprise
15 would have been the same as they were at
16 Ozark?

17 A A whole lot more. A lot more
18 to do.

19 Q How so?

20 A A lot more customers, debt,
21 help in the office. When Edward Finnegan
22 was the manager there he had at least two
23 regular staff and people coming in

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1 constantly which he would send out to
2 market and to do different odds and end
3 things during the course of the day while
4 he was training as far as training going
5 on.

6 And when I would come
7 become the manager one of the personnel
8 was taken away. It was myself and the
9 CSR.

10 Q Now, you weren't the training
11 manager, though?

12 A No.

13 Q Finnegan was the training
14 manager in Enterprise, correct?

15 A Right.

16 Q And that required him to bring
17 in people, new people?

18 A That's why the people was
19 constantly coming in but on a regular
20 basis he had two personnel.

21 Q So what --

22 A Including himself.

23 Q But he had extra duties as

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1 well?

2 A Right.

3 Q As training manager, correct?

4 A I assume, right.

5 Q How did your duties change
6 when you went from Ozark to Enterprise if
7 you didn't take the training slot?

8 A Not to say it
9 was a lot more to do, a lot more bad
10 debt, different locations. Larger
11 locations normally you would get a larger
12 pay because the more duties. I mean more
13 things to do in the course of the day.
14 Same basic outline but more things to do.
15 More bad debt to chase down. More
16 people to tend to.

17 Q Okay. And how did your pay
18 change, if any?

19 A It did not change.

20 Q How did your bonuses change?

21 A Bonuses -- since I transferred
22 back to Enterprise?

23 Q Yes.

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1 A I wasn't there long enough to
2 bonus.

3 Q So that was not a factor at
4 that point?

5 A Well, I mean the numbers was
6 off so pretty much I wouldn't have gotten
7 a bonus.

8 Q And at Ozark how were your
9 numbers?

10 A I was bonusing at Ozark.

11 Q When you left how was Ozark's
12 numbers?

13 A They weren't bad. They
14 weren't where they could have been, but I
15 was bonusing on average compared to the
16 rest of the stores. It was decent. I
17 was in line.

18 Q How long were you at
19 Enterprise before you were fired?

20 A I would say two months. A
21 little over two months.

22 Q Who replaced you at Ozark?

23 A I was told that they were

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1 going to bring a manager from Dothan, the
2 Dothan location, to replace me in the
3 Ozark branch.

4 Q Okay.

5 A At that time the division was
6 being divided up whereas the Ozark
7 location would not have been under
8 John Knowles. It would have been under
9 another DDO. So, he sent one of his
10 personnel from the Dothan location to the
11 Ozark branch and then for whatever reason
12 he pulled me back to Enterprise.

13 Q In other words there was a
14 reorganization at the time you moved to
15 Enterprise, is that correct?

16 A Correct.

17 Q And you were moved to
18 Enterprise and then somebody was moved to
19 Ozark?

20 A Right.

21 Q Okay. And the person from
22 Ozark came from a different area?

23 A It was within John Knowles'

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1 area but transferred to the Ozark branch.

2 Q And who was it that
3 transferred to the Ozark branch?

4 A I'm not sure what her name
5 is.

6 Q What race was she?

7 A A white female.

8 Q Okay. Do you know whether or
9 not she wanted to be transferred?

10 A I'm not sure.

11 Q Do you know whether or
12 not -- was she branch manager before she
13 was transferred to Ozark?

14 A She was.

15 Q Do you know what branch she
16 was at?

17 A Dothan location. I don't know
18 which exact location.

19 Q And was there anybody else
20 transferred in this reorganization that
21 you know of besides yourself and this
22 branch manager from Dothan?

23 A Not that I know of.

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1 Q Do you know whether or not
2 there were other people who were
3 transferred during this reorganization?

4 A I'm not sure.

5 Q How do you know it was a
6 reorganization?

7 A I know we received memos. I
8 actually got a chance to talk to my new
9 DDO at the time -- would have been my new
10 DDO. He was just pretty much introducing
11 himself and calling on the stores that
12 would be under his new, you know,
13 location under his new area. Just
14 getting familiar with the new stores and
15 he introduced himself and that was the
16 last time I heard from him.

17 Q He was going to be the new DDO
18 for Enterprise?

19 A For Ozark.

20 Q For Ozark? So Ozark went to
21 somebody else?

22 A Right. Went to another area,
23 another --

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1 Q DDO?

2 A DDO.

3 Q What other locations besides
4 Ozark went to another DDO?

5 A The northern state. I mean
6 cities like Troy and I guess different
7 locations. I know Troy was one of the
8 ones that went to another DDO.

9 Q So you and this white female
10 were both under John? John Knowles got
11 new assignments and both of you went to
12 where John Knowles had his operation, is
13 that correct?

14 A No. She was moved from his
15 operation and I was brought where his
16 operation will remain in Enterprise.

17 Q One of you swapped out from
18 Knowles and one of you swapped into
19 Knowles?

20 A Brought in.

21 Q But that was all part of this
22 reorganization?

23 A I don't see where it was

1 necessary to be a reorganization.
2 The way the plans was to my
3 understanding that I would have stayed
4 the manager. The managers would have
5 stayed the same. I mean just everything
6 stayed the same. Just different zones
7 and different pretty much didn't involve
8 the manager level part. Only DDO's would
9 have different stores to manage.

10 Q Okay.

11 A And that was no need to
12 transfer me to Enterprise during this
13 reorganization because it had nothing to
14 do with me being the manager in Ozark
15 versus being the manager in Enterprise.

16 Q As it happened the white
17 female and black female were transferred
18 at this time? The managers, in fact?

19 A After he decided to transfer
20 me to Enterprise he needed someone to
21 fill the Ozark position and she was the
22 closest one from what I understand. I'm
23 not sure.

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1 Q Who took her place?

2 A I'm not sure.

3 Q Was there somebody transferred
4 into her place in Dothan?

5 A I'm not sure. I believe she
6 was within the company already. I'm not
7 sure.

8 Q And Finnegan where did he go?

9 A He was already in Ozark. I
10 mean he was already in Dothan.

11 Enterprise branch was not really ran by a
12 manager for a few months.

13 Q Okay. So there was an empty
14 Enterprise slot that Finnegan -- I'm
15 sorry, that Knowles needed to fill?

16 A Right.

17 Q Knowles transferred you over
18 to this empty slot?

19 A Right.

20 Q And it was a branch that had
21 more business?

22 A Right.

23 Q Than the Ozark branch?

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1 A Right.

2 Q Would that also make it a
3 branch that had more potential for bonus
4 because it was larger?

5 A Not really because they
6 have -- I don't even think they ever made
7 the three hundred checkmark. Once you
8 make a certain threshold of checks that's
9 when you can bonus. And I don't think
10 that store ever would have the potential
11 to make the three hundred. I don't know.

12 Q I'm having a hard time
13 understanding why it was a bigger store
14 then. You mean bigger space wise?

15 A Bigger as far as customer
16 wise, customer base, and Ozark, I was
17 only holding two hundred customers so
18 customer wise it had more customers which
19 meant more bad debt. And more bad debt
20 is more time I have to spend outside the
21 office trying to track this bad debt
22 down.

23 Q And who was, during this

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1 conversations.

2 Q Did you ever have a
3 conversation with John Knowles where you
4 expressed displeasure about being
5 transferred from Ozark to Enterprise?

6 A Yes, I did.

7 Q When did that conversation
8 occur?

9 A The day that he come into the
10 branch to tell me that I was
11 transferring. And there was no need to
12 call anyone.

13 Q And what do you mean "there
14 was no need to call anyone"?

15 A Because pretty much he was
16 saying don't run and try to complain
17 because there's nothing that can be done
18 about it. The word come from -- come
19 down that I have to transfer. There's no
20 if's, and's or but's about it. Either
21 transfer or not have a job.

22 Q And do you know who it was
23 that made the decision for you to

1 transfer?

2 A I'm not sure.

3 Q But it wasn't John Knowles
4 apparently?

5 A From what I understand it was.

6 Q Why do you believe it was John
7 Knowles?

8 A Certain reasons. Certain
9 situations. He told me that before he
10 transferred he let Edward Finnegan decide
11 who he wanted to carry with him, you
12 know, in the branch. If that come down
13 from above John Knowles I would have been
14 notified sooner. I felt like that he
15 made the decision.

16 Q Okay. No one has told you that
17 John Knowles made the decision, correct?

18 A Correct.

19 Q John Knowles told you he did
20 not make the decision, correct?

21 A He told me that's the way it
22 is and it comes from the powers to be.

23 Q He was indicating to you in

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1 that saying that it came from somebody
2 above him, correct?

3 A I guess. I'm not sure.

4 Q Who was above him at that
5 time?

6 A Brenda Stewart.

7 Q What race is Brenda Stewart?

8 A African-American.

9 Q Have you ever had any
10 conversations with Brenda Stewart about
11 any complaint that you've ever had about
12 the way you were treated at Advance
13 America?

14 A No.

15 Q Have you ever filed an EEOC
16 complaint against Advance America
17 concerning your promotional issues, the
18 issues of the two positions that you
19 wanted before you were promoted?

20 A I was told in so many words if
21 I don't make waves, keep my nose clean
22 and keep doing my job eventually I will
23 get a promotion.

1 complaining about Knowles?

2 A Several. She would comment
3 very often.

4 Q Let me mark this as the next
5 exhibit, please.

6 (Defendant's Exhibit
7 No. 2 was marked
8 for identification.)

9 Q Exhibit No. 2, I believe, is
10 the first piece of paperwork that shows
11 that you were hired by the company. And
12 the reason I'm showing it to you is I
13 just wanted to clarify you were hired as
14 an assistant manager, correct?

15 A Right.

16 Q And your starting salary is
17 eight dollars an hour?

18 A Uh-hmm.

19 Q And Hope French was the hiring
20 manager, correct?

21 A Right.

22 Q This the same Hope French that
23 you later had a run-in over a telephone

1 Q Now, do you recognize this to
2 be a performance evaluation you received
3 on July 19, 2002?

4 A Yes.

5 Q Okay. And you recognize it
6 because on INT 49 your handwriting
7 appears, correct?

8 A Correct.

9 Q And this would have been a
10 performance evaluation done by the same
11 gentleman who did the previous
12 performance evaluation, Edward Finnegan,
13 right?

14 A Right.

15 Q And this was a somewhat less
16 complimentary evaluation, correct?

17 A Correct.

18 Q And in this evaluation he
19 marks promotable with additional training
20 experience, correct?

21 A Right.

22 Q And do you recall what the
23 issues were that he was concerned about

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1 at the time? Let me tell you I gave you
2 the wrong one. Let's switch out here.
3 That's my copy. I need to watch that and
4 let me give you this.

5 Looking at the same page
6 as INT 49, just so the record is clean,
7 this is the same document without my
8 scribbling on it, correct?

9 A Correct.

10 Q I didn't switch documents on
11 you, right?

12 A Right.

13 Q Do you recall what the issues
14 were at this time that you were having
15 problems with?

16 A At this point I was told
17 everything was fine up until my
18 evaluation.

19 Q And who was supervising you at
20 the time?

21 A Edward Finnegan.

22 Q What is Mr. Finnegan's
23 concerns on this evaluation?

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1 A Initiative to, I guess,
2 delegate authority and initiate to take
3 on different tasks, things that needed to
4 be done within the branch.

5 Q Okay. And he marks this one
6 promotable with additional training and
7 experience, correct?

8 A Correct.

9 Q And you found exception to
10 what Mr. Finnegan said in this
11 performance evaluation, correct?

12 A Right.

13 Q And you talked to Mr. Finnegan
14 about that?

15 A Correct.

16 Q Okay. Did you talk to anybody
17 else about it?

18 A No, I didn't.

19 Q You didn't take it above his
20 head to Mr. Knowles?

21 A No.

22 Q So what did Mr. Finnegan tell
23 you about this evaluation?

1 A He stated those were a few
2 issues that Mr. Knowles had brought up to
3 him and he could not give me any higher
4 than what he gave me. I said to him, as
5 you know, Mr. Finnegan, you know, it's
6 not true. You work with me and you see
7 this everyday. You see what I do
8 everyday but he stated only a certain
9 amount that he can give me and if he was
10 to write all five's or whatever
11 Mr. Knowles would reject it and return it
12 back to him anyways.

13 Q Did you think you deserved all
14 five's?

15 A I never made reference to
16 five's. That was the point he brought up
17 to me. If he was to make a scoring on my
18 thing, my evaluation higher than what it
19 was, Mr. Knowles would reject it and
20 return it back to him to fix it.

21 Q Now, did he ever tell you he
22 didn't believe any of these things he put
23 in there?

1 A Of course.

2 Q What did he say?

3 A He stated that I know you're
4 doing your job and I know that you're
5 doing a good job. It's just that I guess
6 the numbers was not where they needed to
7 be at the time.

8 Q Okay.

9 A He made reference to if the
10 numbers are out of line then somebody got
11 to be doing something or not doing
12 something.

13 Q Okay. And your numbers were
14 out of line?

15 A I believe so. Let me look.

16 Q Let's see.

17 A It's not where it should be.
18 We were not growing like we should have
19 been.

20 Q Okay. So, let's just look at
21 this page by page here. On the first
22 page of this evaluation you got all
23 three's which means meets expectations,

1 correct?

2 A Correct.

3 Q On the second page you were
4 marked needs to be more resourceful in
5 solving problems and undertaking new
6 projects under the initiative category,
7 correct?

8 A Correct.

9 Q You got a two there, correct?

10 A Uh-hmm.

11 Q And then you had another needs
12 improvement in problem solving, correct?

13 A Correct.

14 Q Now, what did Mr. Finnegan
15 tell you about those two categories?

16 A He really didn't give me an
17 explanation. The only thing that he
18 stated is that I call his cell phone
19 entirely too much.

20 Q Okay.

21 A And I said to him if I don't
22 call your cell phone and not get
23 authorization to do certain things that

1 it would be -- you know, me on the line
2 will take it upon myself to make a
3 decision where I'm not authorized to
4 make.

5 Q So you argued with him about
6 whether or not you had the initiative?

7 A Yes. I remember making
8 reference to that. And he stated that
9 just don't call him. Just do it.

10 Q How about problem solving,
11 what did he tell you about that?

12 A That was part of the
13 initiative portion of it.

14 Q Okay. And then the next page
15 you have meets expectations. The
16 following page, which is INT 46 you got a
17 two on held check growth. What does that
18 mean?

19 A It means that the store was
20 not growing. We were not holding the
21 amount of customers that was expected for
22 that branch at that level to be holding.

23 Q And so he rated you need